

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

FILED

2009 OCT -7 P 3:17

LINDA MANNING,

Plaintiff,

v.

UNITED OF OMAHA LIFE INSURANCE
COMPANY,

Defendant.

U.S. DISTRICT COURT
EASTERN DIST. TENN.

BY _____ DEPT. CLERK

No. 1:09-cv-263
Collier Carter

NOTICE OF REMOVAL

Defendant United of Omaha Life Insurance Company ("United of Omaha") files this Notice to remove to this Court an action brought against it and currently pending in the Circuit Court of Hamilton County, Tennessee, bearing Docket No. 09C1153, and with respect thereto, would show this Court as follows:

1. The above-styled cause was commenced in the Circuit Court of Hamilton County, Tennessee, Case No. 09C1153, by virtue of a Complaint filed by Plaintiff Linda Manning ("Manning") on September 8, 2009, against Defendant. United of Omaha was served with process on September 14, 2009. Pursuant to 28 U.S.C. § 1446(a), a copy of the aforementioned Complaint, along with copies of process, are attached hereto and made a part of this Notice by reference.

2. Upon information and belief, Plaintiff is a citizen of the State of Tennessee, County of Hamilton.

3. This action is one of a civil nature for damages claimed as a result of alleged breach of an insurance contract by the Defendant. Manning was a participant in a disability insurance policy purchased through United of Omaha and the City of Chattanooga ("Plan"). Plaintiff's action is civil in nature, there is complete diversity jurisdiction, and this Court has jurisdiction over Plaintiff's action under the provisions of 28 U.S.C. § 1332.

4. Defendant filed this Notice of Removal in this Court on October 1, 2009. Defendant's Notice of Removal has been filed within the 30 day time period in 28 U.S.C. § 1446(b) because it is being filed within thirty days of when Plaintiff filed the Complaint.

5. This Court has jurisdiction over this cause under 28 U.S.C. § 1332(a)(1) and (c)(1) and 28 U.S.C. § 1441, *et seq.*

6. There is complete diversity of citizenship between Plaintiff and Defendant. Plaintiff is a resident of Tennessee. United of Omaha is a Nebraska insurance company, whose principal place of business is in Omaha, Nebraska, and it is not publicly traded.

7. While Plaintiff's Complaint does not allege a specific monetary amount of damages, the Complaint alleges that damages are "substantial" (Complaint ¶ 24), asks for treble damages (*id.* at ¶ 29), and alleges United of Omaha acted in bad faith (*id.* at ¶¶ 30-35).

8. The time period within which Defendants are required to file this Notice of Removal pursuant to 28 U.S.C. § 1446 has not yet expired. Since the date on which the applicable Defendant was served with the summons and a copy of the Complaint, there have been no other proceedings in this case in the Circuit Court of Hamilton County, Tennessee.

9. United of Omaha files herewith a copy of all process, pleadings, and orders served upon all parties to this action and available from the Circuit Court of Hamilton County, Tennessee at the time of filing.

10. The allegations of this Notice are true and correct and within the jurisdiction of the United States District Court for the Eastern District of Tennessee, and this cause of action is removable to the United States District Court for the Eastern District of Tennessee.

WHEREFORE, Defendant files this Notice for the purpose of removing this action from the Circuit Court of Hamilton County, Tennessee, to the United States District Court for the Eastern District of Tennessee.

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

By: 

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I have on this the 7th day of October, 2009, I caused a copy of the foregoing *Notice of Removal* to be served upon the following counsel of record for the plaintiff in the above-styled cause:

Eric L. Buchanan, Esq.
R. Scott Wilson, Esq.
D. Seth Holliday, Esq.
Eric Buchanan & Associates, PLLC
414 McCallie Avenue
Chattanooga, TN 37402

by deposit in the United States mail, postage prepaid and properly addressed.

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

By: Cameron S. Hill
Cameron S. Hill